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The Question of Self-determination in International Democracy Promotion

Jonas Wolff

März 2014

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Abstract

The paper discusses the norm of self-determination as a core element of and a difficult challenge to international democracy promotion. Collective self-determination is part and parcel of the promise of democracy and, hence, of democracy promotion. Yet, at the same time, the idea that political communities should determine themselves clashes with democracy promotion's aim to shape political orders from the outside. Given the scarce attention to the question of self-determination in the academic and political debates about democracy promotion, the paper is mainly of a conceptual and theoretical nature: Its aim is to review the literature on self-determination in order to clarify the concept – or, in fact, the competing concepts – of self-determination and discuss its relation with democracy in general and democracy promotion in particular. The paper (1) shows that the claim to collective self-determination constitutes a common normative denominator between contemporary opponents and supporters of democracy promotion; (2) reviews the range of conceptions of collective self-determination from a maximalist notion of liberal-democratic self-rule to a minimalist understanding of self-determination based on a rather broad notion of popular sovereignty; and (3) discusses implications for democracy promotion understood as the promotion of democratic self-determination.

Introduction¹

The idea of self-determination is at the heart of international democracy promotion. The notion that a given political community should be able to determine its own affairs is part and parcel of the promise of democracy and, hence, of democracy promotion. At the same time, the idea of self-determination sits uneasily with democracy promotion's aim to shape political orders from the outside. It is therefore surprising that there is little debate about the question of self-determination in the literature on international democracy promotion. This paper sets out to contribute to filling this gap. Its main aim is to review the literature on self-determination in order to clarify the concept – or, in fact, the competing concepts – of self-determination and discuss its relation with democracy in general and democracy promotion in particular.

In dealing with coercive democratization or military-based regime change, the literature widely acknowledges the inherent contradiction in forcing other peoples to be free (Beetham 2009).² Yet, beyond the rather narrow issue of military intervention, there is not much debate about the relationship between democracy promotion and self-determination. In large parts of the existing literature on democracy promotion it seems that scholars consider the question of self-determination a rather trivial issue. Either self-determination is regarded a self-evident goal of democracy promotion: Promoting democracy implies promoting self-determination, and promoting self-determination requires promoting democracy (cf. McFaul 2005, 148-149). Or, from a critical perspective, democracy promotion, as it is not really about promoting democracy in any serious way, is seen as the opposite: a strategy to prevent any genuine kind of popular sovereignty, i.e. self-determination (cf. Robinson 1996, 59). Both perspectives highlight important aspects of the relationship between democracy promotion and self-determination, but fail to grasp the fundamentally ambivalent relation between the two concepts.

Some scholars have noted the tensions between democracy promotion and self-determination, if largely in passing. Peter Burnell, for instance, has argued that the 'instruments and approaches employed in promoting democracy' necessarily constitute a 'political relationship that the external actors have with countries and with different

¹ This paper was written during a research visit at Nuffield College, University of Oxford. I want to thank the college for giving me the opportunity to work in such a stimulating research environment and Laurence Whitehead for the generous support and helpful comments. The paper has also benefited from discussions with Christian Arnold, David Miller and Alessandro Spina as well as, back at the Peace Research Institute Frankfurt, from comments by Harald Müller and Annika E. Poppe.

² See also Burnell (2008, 421), Merkel (2008, 498), Walzer (2008, 351), Fabry (2009, 727), Pangle (2009, 31-33), and Whitehead (2010, 24).

political constituencies within those countries', which has 'implications for the possibilities of political self-determination' (Burnell 2008, 421). In examining the 'morality' of democracy promotion, Thomas Pangle has emphasized that a 'liberal-democratic policy of seeking to spread democracies [...] can quickly come into conflict with a liberal respect for the self-determination of other nations' (Pangle 2009, 31). Laurence Whitehead has pointed to the fact 'that state sovereignty provides an underpinning to democracy that can hardly be dispensed with': 'The coupling of democracy and state sovereignty may be awkward and contingent, but it is also a necessary partnership, at least for the present generation' (Whitehead 2010, 25). The same, I submit, can be said about the awkward, contingent and necessary coupling of democracy and self-determination. As will be argued below, it is the norm of self-determination that underlies and substantiates contemporary claims to sovereignty – just as it is a core normative guideline of external democracy promotion.

Recent years have seen increasing contestation of democracy promotion.³ Since the turn of the century, debates regarding a 'democratic recession' (Diamond 2008, chap. 3) and a 'backlash against democracy promotion' (Carothers 2010) have emerged. George W. Bush's Freedom Agenda and the war in Iraq have discredited the entire endeavor to globally spread democracy (Whitehead 2009). These trends have been reinforced by an on-going shift towards a multi-polar world, brought about by the political and economic rise of non-Western powers, including autocratic ones (cf. Hurrell 2013). In this context, the question of the (il-)legitimacy of external democracy promotion has re-entered the discussion – both in the academic and in the political sphere. In the first section of the paper, I will argue that the right of self-determination constitutes the common normative denominator in this debate about the (il-)legitimacy of democracy promotion. While the dominant positions, in one way or another, pit a collective claim to sovereignty against an individual entitlement to democracy, the debate can be also – and arguably better – understood as an argument over competing understandings of collective self-determination.

The second section discusses the conceptual work on self-determination in international law and international political theory. While agreeing that self-determination is something that can only be exercised collectively by the political community at hand, contemporary conceptions differ in the extent to which they regard individual rights as the normative source of the claim to self-determination. In a maximalist (liberal-democratic) understanding, collective self-determination is but a function of an individual entitlement to self-determination, and a given state can therefore only lay claim to collective self-determination if it complies with ambitious internal conditions that ensure individual autonomy. In a minimalist conception, by contrast, collective self-determination is a genuine group right that has primarily an external meaning (protection from outside interference) and explicitly includes the entitlement to decide on the ways in which it is to be exercised internally. In reviewing the debate about these competing conceptions, I argue that the distinction between a maximalist and a minimalist interpretation of self-determination constitutes a useful analytical starting point, but that the conceptions actually developed by scholars offer a rather differentiated picture with gradual differences and quite a lot of commonalities. This enables the identification of common criteria that define – and delimit – collective self-determination. These criteria are certainly not consensual but do, I think, represent a reasonable common ground among those scholars who do neither entirely re-define collective self-determination in terms of an individual right to liberal democracy nor equate collective with external self-determination and thus state sovereignty in the traditional sense.

The third section, finally, discusses the implications of these conceptual and normative thoughts for international democracy promotion. Clearly, all attempts of coercive democratization by military means constitute open violations of the norm of self-determination. But also non-coercive measures taken by external actors to promote democracy in a given country and, namely, activities of democracy assistance⁴ are in an inevitable tension with this norm. Understanding democracy promotion as an endeavor to promote democratic self-determination does not resolve this tension, but does offer general normative guidelines about what is legitimate and what is not.

³ See, for instance, Burnell and Youngs (2010), Hobson and Kurki (2012), Kurki (2013), and Poppe and Wolff (2013).

⁴ In line with a common distinction, democracy promotion is here meant to refer to all kinds of measures taken by an external actor with the declared aim to support the introduction, stabilization or improvement of democracy in another country. Democracy assistance refers to the subset of positive and non-coercive measures in the area of development cooperation/foreign aid.

In discussing self-determination in its relation with international democracy promotion, this paper deliberately focuses on one specific dimension of the larger debate about self-determination in international relations, namely: the question how to conceptualize theoretically and support practically the collective self-determination of a given political community which is already constituted as a state. This leaves aside difficult questions about the definition and delimitation of 'the people' that is to constitute a state and about the conditions under which a self-identified 'people' may secede from an established state.⁵ In focusing on the how of exercising collective self-determination, which is the crucial question for democracy promotion, I ignore this equally important issue of who is entitled to exercise it.

A fundamental question that is raised by any one conception of self-determination which may guide democracy promotion is 'who decides?'. The following conceptual discussion is largely about identifying principles and criteria of self-determination that may or may not justify external interferences in the name of democracy promotion. Yet, justifying particular activities in a given case requires applying such normative principles and criteria and, thus, necessarily involves practical judgment. This *problematique* is highlighted by the neorepublican perspective on self-determination as nondomination discussed at the end of the second section. It creates, once more, difficult questions for democracy promotion as it is usually the external actors that claim the entitlement to judge, by themselves, the situation in other countries and apply the principles accordingly. I will come back to this issue in the final section of the paper.

The relation between self-determination and democracy promotion

Self-determination as a common normative denominator

In the contemporary world, the normative foundations of external democracy promotion are increasingly contested. As Thomas Carothers has noted, the continuing backlash against democracy promotion as well as the reactions to it 'have drawn attention to the question of norms concerning democracy assistance': 'When and in what ways is it legitimate for governments to regulate, and if they wish to prohibit externally sponsored democracy aid activities on their territory? Or looked at from the other side, what right do democracy aid providers have to carry out their work in other countries?' (Carothers 2010, 67) Recipient governments usually justify their criticism or rejection of democracy promotion by pointing to national sovereignty and the corresponding right to non-intervention. External democracy promoters, in turn, refer to universal human rights if not to an international right to democracy. At first sight, this seems like the well-known clash between collective and individual rights, with the former calling for protecting a state's sovereignty and the latter justifying external interferences in the name of human rights. Yet, there is also a collective right on which both opponents and supporters of democracy promotion base their claims. This common normative point of reference is constituted by the right of self-determination.⁶

As established in a number of resolutions of the UN General Assembly as well as by the two international human rights covenants, the right of self-determination entitles 'all peoples' to 'freely determine their political status and freely pursue their economic, social and cultural development'.⁷ As, in the framework of the UN, it is states that represent peoples, this entitlement clearly poses limits to any external interference in the internal affairs of other states.⁸ For the opponents of democracy promotion, the reference to self-determination morally substantiates the legal claim to sovereignty and non-intervention (cf. Beetham 2009, 447; Scott 2012, 205). As Jeff McMahan (1996, 2) has argued, 'the importance of state sovereignty is primarily that it both expresses and protects the self-

5 On these questions, see Buchanan (2004, 331-424); Crawford (2006); Fisch (2010); Hurrell (2007, chap. 5); R. Miller (2003); Moore (1998); and Summers (2004, 2005).

6 As Beetham (2009, 446) argues, democracy and sovereignty share 'the core idea of popular self-determination'.

7 This formulation is taken from the 'Declaration on the granting of independence to colonial countries and peoples' (UNGA Resolution 1514 from 14 December 1960), which first recognized the right of self-determination (Scott 2012, 206; Young 2007, 40). Adopted six years later, the two international human rights covenants – on Civil and Political Rights and on Economic, Social and Cultural Rights, respectively – confirm this 'right of self-determination', which entitles all peoples to 'freely determine their political status', in their identical Article 1 (cf. Charlesworth 2012, 333).

8 For instance, the 'Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty' (UNGA Resolution 2131 from 21 December 1965), after reaffirming the right of all peoples and nations to self-determination, declares: 'Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.'

determination of peoples'. In this sense, it is 'the concept of "self-determination of peoples" that underlies sovereignty' (Roth 2000a, 14; cf. Finnemore 2008, 207-208; Altman and Wellman 2009, 4).⁹

At the same time, for those advocating democracy promotion, such an external involvement in the internal affairs of other states is justified precisely because it aims at enabling political communities to exercise their right of self-determination. In this sense, Michael McFaul (2005, 148-149) has made his case for 'democracy promotion as a world value' by referring, inter alia, to Robert Dahl's assessment that only a democratic government 'can provide a maximum opportunity for persons to exercise the freedom of self-determination – that is, to live under laws of their own choosing' (Dahl 1998, 53-54). This intimate connection between democracy and self-determination is, in fact, a general feature of liberal democratic theory.¹⁰ In Habermas' discourse-theoretic reformulation, for instance, the principle of a (democratic) discourse is 'prior to the citizen's practice of self-determination' because it is a necessary condition that enables and constitutes such practice in the first place (Habermas 1996, 127-128).

It follows that democracy promotion 'does not deny any peoples' right to self-determination; it gives life to that right': Activities of fostering democracy in other states, therefore, 'advance the purpose of the non-intervention norm by enhancing opportunities for self-determination' (Ackerman and Glennon 2007). It is contested whether this basic rationale can be traced back to US president Woodrow Wilson (cf. Ikenberry *et al.* 2009; Larsen 2013). But at the latest US president Harry Truman did explicitly link self-determination and democracy promotion when he committed the US in 1947 to 'assist free peoples to work out their own destinies in their own way' (quoted in Larsen 2013, 33). This, of course, shows that the close relationship between democracy promotion and self-determination does not only justify the former; it also binds democracy promotion to the aim of promoting the latter. Self-determination is part and parcel of the whole endeavor to promote democracy, as democracy is defined as the political regime which enables a given people to rule themselves. In this sense, 'the self-determination of peoples is itself a liberal-democratic value' (Roth 2000a, 424; cf. Hurrell 2007, 132). Thomas Franck, in his seminal article on *The Emerging Right to Democratic Governance* identified self-determination as the 'oldest and most highly developed [...] subset of democratic norms' (Franck 1992, 52).

In her analysis of humanitarian intervention, Martha Finnemore (2008) has also pointed to this status of self-determination as a common normative denominator. In discussions about the (il-)legitimacy of so-called humanitarian interventions, 'sovereignty norms are almost always invoked by those resisting intervention and have become increasingly discredited by those advocating broader humanitarian action' (Finnemore 2008, 207-208). Yet, while discrediting traditional notions of sovereignty, 'even those who support broad and active policies of humanitarian action strongly support self-determination' (Finnemore 2008, 208). Those who support humanitarian interventions, therefore, 'need to take care, not just that they do not violate sovereignty (for which they usually care very little), but also that they do not violate the principle of self-determination (for which, in this form, they ought to care a lot)' (Waldron 2010, 408). If at a lower level of intensity, the same basic *problematique* applies to democracy promotion by non-violent means (see the following section).

For both opponents and supporters of democracy promotion, the reference to self-determination is therefore at the core of their normative reasoning. Yet, what is really meant and implied by this common reference to self-determination is not very clear, neither in the political debate nor in academic research. As a first step towards clarifying this issue, this paper will review the literature on self-determination – and its relation with democracy (promotion) – in order to identify and discuss competing conceptions of self-determination. But before doing so, I have to briefly deal with potential objections against the entire focus of this discussion: objections that the norm of self-determination is generally not to be seen as a problem for *non-coercive* democracy promotion and/or that the 'Westphalian' focus on self-determination and sovereignty at the level of the nation-state is as such entirely outdated.

9 According to Macklem (2006, 501), 'sovereignty is the formal expression of the principle of self-determination in international law.' And Andrew Hurrell (2007, 127) has argued that states 'are deemed legitimate because they embody the exercise of political self-determination' (see also Ikenberry 2011, 289).

10 See, among others, Held (1995, 145); Philpott (1995, 352-353); Habermas (1996, 84-104, 449); Kohler (2011).

Self-determination and non-coercive democracy promotion

In his brief discussion of the issue, Burnell has emphasized the obvious: The extent to which democracy promotion is compatible ‘with democratic self-determination’ depends on the instruments and approaches employed. While ‘attempts to impose democracy from outside’ are deeply problematic, entirely consensual democracy assistance activities ‘appear much less liable to be self-limiting in this way’. Strategies of democracy promotion that fall somewhere between these two extremes ‘are the most difficult to call in terms of their compatibility with democratic self-determination’ (Burnell 2008, 421). Pangle has argued in a similar manner that purely ‘ideological’ tactics – ‘including inter-governmental dialogue, exhortation, propaganda, cultural exchange, and educational efforts of all kinds directed at both subjects and rulers in nonliberal regimes’ – should be considered ‘almost always legitimate’, but that ‘material and educational support for indigenous nongovernmental or semi-governmental democratic organizations and movements within nonliberal nations’ are clearly ‘more intrusive’ and therefore demand ‘greater moral circumspection’ (Pangle 2009, 33).

In this sense, democracy promotion is problematic when it involves means that go beyond ‘example and persuasion’ (Fabry 2009, 727) and includes activities and approaches ‘other than wholly consensual ones’ (Burnell 2010, 16). Unfortunately, it is part of the very nature of democracy promotion – no matter the instrument chosen – that it is not ‘wholly consensual’: Democracy, democratization and, thus, democracy promotion are concerned with the (re-)distribution of political power. Therefore, also development aid projects, if they are to have an impact in terms of democracy promotion, can never be considered politically neutral: Democracy aid is political aid. This is explicitly the case when democracy assistance aims at the empowerment of certain sociopolitical groups or organizations that are seen as crucial for the democratic development of a given country. But democracy assistance is also politically consequential when it aims at strengthening democratic institutions and improving political processes. Political institutions and processes are never neutral but always selective in the sense of privileging certain actors, interests and ideas; strengthening specific institutions will therefore inevitably favor specific groups that are already established, better organized, have superior capacities for mobilizing support, building alliances, shaping public opinion and/or exerting political influence. In addition, strengthening institutions at any given point in time will reinforce the specific constitutional system in place, while increasing the legitimacy and/or performance of those political actors that are represented in or make use of these institutions (vis-à-vis other actors that are not).

Democracy promotion, even if pursued in the benign form of democracy aid, therefore cannot but run into the normative *problématique* implied by its ambivalent relationship with the norm of self-determination. As Burnell (2008, 421) has emphasized, democracy promoters should ‘take account of the implications different approaches have for political self-determination and hence for the end of democratic self-rule.’ These implications become manifestly problematic as soon as it is contested, in a given recipient country, how and by whom collective self-determination is to be exercised. Under such conditions, democracy assistance, in having to choose whom to support and with whom to cooperate, can be seen as undermining or preventing self-determination. The contemporary ‘backlash against democracy promotion’ is precisely about such problematic cases in which democracy assistance becomes a part of, if not a party in, domestic political struggles for and about (democratic) self-determination. Hence, a core issue in this debate concerns the foreign funding of local NGOs which is seen as a contribution to enabling democratic self-determination by democracy promoters – but which is criticized as illegitimate interference and restricted by an increasing number of governments in Eastern Europe, Central and East Asia, the Middle East, Sub-Saharan Africa and Latin America (Carothers 2010; see also Poppe and Wolff 2013).

Self-determination, sovereignty and the nation-state

Why emphasize self-determination instead of the more common reference to sovereignty? In international relations, sovereignty is usually understood as national sovereignty. The claim to national sovereignty and to the corresponding right to non-intervention is then confronted with democracy and human rights norms as if the normative conflict at hand was simply a conflict between the old, apparently outdated ‘Westphalian’ order and a new, emerging ‘cosmopolitan’ order (cf. McFaul 2005, 148, 153-155). The focus on self-determination has the advantage of acknowledging this dimension of the problem: the increasing emphasis in international law and international politics on individual vis-à-vis state norms. But, as seen above, emphasizing self-determination

makes it very clear that there is a much more intrinsic problem with democracy promotion because promoting democracy in a given country, by definition, means promoting the collective self-determination of the respective political community. The focus on self-determination, in this sense, shows that the related norms of collective self-determination, national sovereignty and non-intervention are not something *outside* democracy promotion, but an indispensable element of any meaningful set of norms that is oriented towards promoting democracy.¹¹ In its internal and external dimensions (see below), self-determination also captures the dual notion of popular (internal) and national (external) sovereignty.

Yet, is this whole discourse about self-determination and sovereignty not terribly outdated, given the apparent reality of globalization and global governance? No doubt, neither self-determination nor sovereignty are to be understood as absolute, they do not (and have never meant) total autonomy or autarchy. Still, this paper is based on the observation that, for the time being, the arena of the nation-state is the most important one when it comes to collective decision-making and rule-setting. This is why, if a given political community is to approach self-determination and/or democracy, the nation-state continues to be the primary locus of political struggle (cf. Hurrell 2007, 317; Müller 2009; Nagel 2005, 105; Walzer 2008, 355). As Whitehead (2010, 27) has argued, the nation state remains, for the time being, the ‘prime and indispensable bearer of whatever aspirations there may be, either for political democracy as an end-state, or for democratization as a route towards greater popular participation in the exercise of public authority’. This is, in any case, the basic premise of international democracy promotion, which is oriented at the nation-state.

Competing conceptions of self-determination

The right of self-determination of peoples, according to David Scott, has ‘sources in the late eighteenth and nineteenth century principle of popular sovereignty’ and was ‘pivotal to international sovereignty discourse at least since World War I’; however, it is only after World War II that self-determination was transformed ‘from a political *ideal* [...] into a *legally binding principle* of international conduct, an international legal norm’ (Scott 2012, 201, emphasis in the original; see also Franck 1992, 53-55; Roepstorff 2013, chap. 1). This transformation took place in the context of the process of decolonization, which framed both the political usage of and the academic debate about self-determination (cf. Anghie 2004, 196; Crawford 2006, 107-131; Emerson 1971, 462; Scott 2012, 206; Young 2007, 40).

In general terms, self-determination can be defined as a ‘doctrine concerning the legitimacy of political and legal institutions, which asserts a process by which nations and peoples based on their will attain, maintain and enhance their self-realization and freedom by the organization and practice of those institutions’ (Summers 2004, 342-343). When discussing the literature in international law, I refer, as does this scholarship, to self-determination as a right. But in order to avoid the contested question whether there is strictly speaking such thing as a *right* to self-determination in terms of ‘hard’ or ‘positive’ international law, I will generally prefer the broader notion of a *norm* of self-determination.

External versus internal self-determination

An established distinction in international law is that between external and internal self-determination (Summers 2013; cf. Emerson 1971, 465-66; Senese 1989, 19; Vandewoude 2010, 982-83). As coined in the context of decolonization, external self-determination concerns ‘the international status of a people’ and basically encompasses ‘the recognition that each people has the right to constitute itself a nation-state or to integrate into, or federate with, an existing state’. Internal self-determination, by contrast, presupposes that peoples ‘have already achieved statehood (or state-like formation)’ and concerns ‘the right of people to freely choose their own political, economic, and social system’ (Senese 1989, 19).¹² In protecting such freedom of choice from external interferences, internal self-determination ‘is essentially a negative matter’, directly related to the right of non-intervention (Emerson 1971, 466). In this classic usage, both external and internal self-determination essentially

11 Of course, the related norms of collective self-determination, national sovereignty and non-intervention can be conceptualized in explicitly nondemocratic ways – but democracy as understood in democracy promotion practices does always and necessarily imply some kind of reference to self-determination, sovereignty and non-intervention.

12 The latter phrase refers to the General Assembly’s declaration on non-intervention (Resolution 2131) quoted above (see note 8).

refer to decolonization, with the former being ‘defined as the right to freedom from a former colonial power’, the latter ‘as independence of the whole state’s population from foreign intervention or influence’ (Hannum 1990, 49). In his *Political Theory and International Relations*, Charles Beitz (1990 [1979], 92-93) even reserved the term self-determination for the external dimension, the right of ‘colonies or other entities under foreign control have a right to independent statehood’.

In the contemporary debate about the international promotion or even enforcement of human rights and democracy, self-determination is mainly discussed with a view to the (contested) right of non-intervention. The focus has, thereby, almost entirely shifted to the internal dimension of self-determination, giving rise to a new kind of internal/external distinction.¹³ When Beitz, in a more recent piece, distinguishes between ‘two different senses of self-determination’, an ‘external’ and an ‘internal’ one (Beitz 2009, 336), both refer to what had traditionally been called the internal dimension. The external meaning of self-determination, now, refers to ‘a state’s legal and political autonomy’, that is to the negative protection of a state vis-à-vis potential outside intervention; the internal meaning of self-determination, in contrast, concerns ‘the relationship between a nation or “people” and its state’ and, thus, the question whether it is really the people that is governing (determining) itself (Beitz 2009, 336; see also Summers 2013, 229).¹⁴

In the traditional post-World War II distinction between external and internal self-determination, both concepts did refer to different contexts and, thus, different matters. The contemporary, post-Cold War external/internal distinction, by contrast, refers to different meanings – ‘senses’ (Beitz 2009, 336) – of self-determination with a view to basically the same context and matter, namely the (right to) self-determination of and in established states (see Table 1).

Table 1: *Conceptions and dimensions of self-determination*

	External	Internal
Traditional usage (post-World War II; decolonization)	External self-determination: right to independent statehood; specifically, right to freedom from colonial rule	Internal self-determination: right to freely choose political, economic, and social system; specifically, right to non-intervention
Contemporary usage (post-1990; liberal hegemony)	External <i>meaning</i> of (internal) self-determination: right to political autonomy; specifically, right to non-intervention	Internal <i>meaning</i> of (internal) self-determination: right of the people to govern themselves; specifically, right to popular sovereignty (democracy?)

In general, there is no doubt that meaningful self-determination in its internal dimension depends on self-determination in its external dimension. At the same time, however, there seems to be a consensus that self-determination, when it comes to established states whose boundaries are not contested, is about self-determination of the people that constitutes the given political community. Whereas sovereignty, in a very narrow understanding, might apply simply to the government of a state, self-determination always refers to some collectivity.¹⁵ In this sense, governments exercise self-determination only to the extent that they are recognized as representing ‘the people’, ‘the population’, or ‘the popular will’. In its internal meaning as used here, self-determination, therefore, equals popular sovereignty. The main issue is, however, whether this implies a specific (liberal-democratic) understanding of the ways in which self-determination is to be exercised or not.¹⁶ This evokes the crucial question which conditions a state or government has to fulfill in order to enjoy a right to self-

13 Still, in the debate about the secession from, or breakup of, states, the question of positive (external) self-determination is very much alive and contested (cf. Buchanan 2004, 331-424; Crawford 2006; Fisch 2010; Hurrell 2007, chap. 5; R. Miller 2003; Moore 1998; Summers 2004, 2005).

14 Similar differentiations are the ones between the external and the internal meaning of popular sovereignty (cf. Roth 2000a, 37) and between negative and positive sovereignty (cf. Jackson 1990, 26-31). Focusing on self-determination, Russell Miller (2003, 612) identifies two related kinds of distinctions, namely between ‘Western (democratic) and non-Western (nationalist) perspectives of self-determination’ and between ‘internal (democratic) and external (anti-colonial/secessionist) self-determination’.

15 The usual references being peoples or nations (cf. Cobban 1969, 39; Crawford 2006, 107-131; Fisch 2010, 271; Ronen 1979, 53; Summers 2004, 342-344) or, more generally, political communities (cf. Roth 2000a, 414; Walzer 2006).

16 This problem reflects a basic tension in liberal democratic theory, namely between the ‘liberal’ emphasis on ‘prepolitical liberties of the individual’ and the ‘republican’ emphasis on ‘the intrinsic, noninstrumentalizable value of civic self-organization’ (Habermas 1996, 100).

determination (in representation of a corresponding people). Different answers to this question, according to Beitz (2009, 336), yield a ‘range of possible interpretations of the idea of self-determination’ that vary from minimalist to maximalist.

The maximalist reading: Self-determination as liberal-democratic self-rule

From the maximalist view, self-determination is seen to require ‘political institutions that are in some suitably generic sense democratic’ (Beitz 2009, 336). In fact, even in international law, it is now rather usual to argue that the “domestic” and internal dimension of the principle concerns ‘self-determination as freedom of democratic choice of one’s own government’ (Cassese 1995, 21).¹⁷ Or, in Franck’s words, self-determination ‘postulates the right of a people organized in an established territory to determine its collective political destiny in a democratic fashion’ (Franck 1992, 52; cf. Valdeoude 2010). This interpretation is also based on a reinterpretation of the international human rights covenants which declare, in Article 1, that by virtue of their right to self-determination, all peoples ‘freely determine their political status and freely pursue their economic, social and cultural development’. This, Crawford (2000, 94-95) argues, ‘suggests that self-determination is a continuing matter, not a once-for-all constitution of the State’, which implies ‘the principle of democracy at the collective level’ (see also Petersen 2008, 15-16).

This directly leads to the notion that there is an international right to democracy:¹⁸ From this perspective, ‘the very basis of the authority of government’ is seen to rest ‘on the fulfillment of liberal-democratic participatory standards’; ‘the sovereignty affirmed and protected by the international system is understood to be popular sovereignty, and popular sovereignty is understood to be predicated upon liberal democracy’ (Fox and Roth 2000b, 10). The collective right to self-determination essentially becomes a function of an individual right to liberal-democratic self-rule – which is merely exercised collectively.¹⁹ The result is what Reisman (2000, 244) calls a ‘new constitutive, human rights-based conception of popular sovereignty’, which equals a corresponding liberal-democratic conception of self-determination (see also Tesón 1992, 54, 92).

From this perspective, a state, regime or government can only claim self-determination in its external sense if and when it has realized it internally. More specifically, the claim to collective self-determination as articulated by a government is contingent on its complying with the procedural requirements of liberal democracy (cf. Crawford 2000, 94-95; Fox 2000, 89). Promoting liberal democracy from the outside, therefore, does not undermine but help realize self-determination (cf. Franck 1992; Reisman 2000).

The critique of the maximalist reading and the minimalist alternative

Since the end of the Cold War, the legal and political debate about self-determination has turned towards establishing increasingly specific political – in fact, democratic – standards (cf. Vandewoude 2010, 984-985). It has moved ‘away from the problem of empire (“external” self-determination) toward the question of the internal political form of regimes holding state power (“internal” self-determination)’ (Scott 2012, 223). Yet, this does not mean that there is now a consensus on a liberal-democratic reading of self-determination (and the related concept of popular sovereignty). There are still much more restricted interpretations that emphasize the external dimension of self-determination. Such minimalist readings remain closer to the traditional perspective in international law, according to which, once ‘the self-determination unit is a State, the principle of self-determination is represented by the rule against intervention in the internal affairs of that State, and in particular in the choice of the form of government of the State’ (Crawford 2006, 128).

Brad Roth (2000a, 415), for instance, maintains that ‘it is far from ridiculous that the right of self-determination may amount, as a matter of practical application, to the right to be ruled by domestic thugs rather than by foreigners announcing benevolent intentions’ (Roth 2000a, 415; see also D. Miller 1997, 89-90). Drawing on Mi-

17 Relating the contemporary to the classic terminology, the new understanding of internal self-determination can be read as establishing internal criteria for internal self-determination and, thereby, in fact limiting the internal self-determination of states in the name of the internal self-determination of peoples.

18 See Franck (1992) and Fox (2000), the debate in Fox and Roth (2000a) as well as the contributions by Christiano (2011), D’Aspremont (2011), Marks (2000, 2011), Petersen (2008), Roth (2000a) and Valdeoude (2010).

19 ‘Although self-determination is exercised by collectivities, we value it for its importance for individuals.’ (Beitz 2009, 338; see also Habermas 1996, 449 and Waldron 2010, 408) Beitz, however, still qualifies this argument and explicitly rejects democracy as a condition of self-determination. For the (complicated) relationship between individual and collective self-determination, see also Kohler (2011).

chael Walzer, Byers and Chesterman make a similar argument noting that ‘it may seem paradoxical to assert a people’s right to a State within which their rights are violated, but such a State is the only one that they, as a political community, are likely to call their own’. The right of self-determination, according to this reading, ‘vests in none other than the people’, and ‘it is they – and not some foreign power that they have similarly not elected – who must determine their own destiny’ (Byers and Chesterman 2000, 291). In this sense, the liberal-democratic redefinition of self-determination becomes part of ‘a *civilizational* and an *imperial* project that articulates itself in the political idiom of democracy and the acceleration of global “democracy promotion”’ (Scott 2012, 201; emphasis in the original; see also Roth 2000a, 424; Tully 2008, chap. 5).

In contrast to the interpretation that self-determination can only be understood as liberal-democratic self-determination, Waldron (2010, 408) has emphasized that the ‘right of self-determination is prior to democracy, for it includes the right to decide whether to have a democracy around here, and if so, what sort of democracy to have’.²⁰ In the same vein, Altman and Wellman reverse the liberal notion that the collective right of self-determination is only a function of an individual right to democracy by arguing ‘that the inherent value of democratic rule cannot be grounded in individual rights but rather must be based on an irreducibly collective moral right of political self-determination’ (Altman and Wellman 2009, 11). While according to the liberal-democratic conception of self-determination there can be no collective self-determination without democracy, Altman and Wellman argue that individuals in a democracy are in fact ‘*not* self-determining’; ‘in a democracy groups *are* self-determining’ (Altman and Wellman 2009, 17; emphasis in the original). Neither the collective right of self-determination nor democracy, therefore, can be based on individual rights to self-determination and/or self-government.²¹ Correspondingly, ‘quests for self-determination have historically appeared as group quests for self-determination, not individual quests for self-determination, because individual self-determination as an institutionalized sociopolitical entity is inconceivable’ (Ronen 1979, 53). Here, clearly, self-determination in its external meaning is the precondition for deepening internal self-determination.

This interpretation of self-determination very much sticks to ‘the principles governing decolonization’, which did not require ‘that the new states resulting from decolonization would be democratic’ (Hendrix 2008, 26; cf. Fisch 2010, 65). Yet, it is not entirely unconditional in the sense of just accepting any state and government by virtue of their mere existence. Scholars defending this interpretation do not deny that it is ultimately the people that is to determine itself and that, therefore, self-determination is to be based on some notion of popular will. Yet, they note four related problems associated with the maximalist interpretation.

The first, epistemological problem is ‘that empirical investigation to ascertain public opinion in a foreign state is most often impracticable, that “popular will” itself is a complex and normatively-loaded concept, and that any imposition from abroad of procedures calculated to appropriately measure “popular will” is at best presumptuous, and at worst a usurpation’ (Roth 2000a, 414). This, however, is only a problem because of a second, substantial issue: A given people ‘may in fact favor a nondemocratic form of governance’ (Altman and Wellman 2009, 29; cf. Fisch 2010, 67), a substantive conception of democracy that diverges from liberal democracy (Roth 2000a, chap. 4) and/or a ‘nonliberal idea of justice’ (Rawls 1999, 70). In this sense, Michael Walzer’s argument applies that ‘a people is self-determining if it is “governed in accordance with its own traditions”’ (Beitz 2009, 337).²² As a result, ‘[o]ne can acknowledge that, within the scheme of the United Nations system, sovereignty ultimately belongs to peoples and not to governments, and still question whether a liberal-democratic institutional structure is the ultimate and indispensable vehicle of popular will’ (Fox and Roth 2000b, 14). A government may be required to be somehow representative in order to claim self-determination, but this does not necessarily imply

20 Focusing on self-determination in the external sense, Fisch (2010, 19) has also argued that the right to self-determination is prior to human rights, ‘the precondition for the enjoyment of all other [human] rights’.

21 These authors do agree that the basis of the collective right of self-determination is the individual, but the difference, they emphasize, is that, when a group’s self-determination is disrespected, it is the individual ‘*as a group member*’ that is wronged (Altman and Wellman 2009, 39; emphasis in the original). In making their argument, Altman and Wellman, *inter alia*, refer to the argument made by Allen Buchanan (1998, 17–18) that ‘it is simply false to say that an individual who participates in a democratic decision-making process is self-governing; he or she is governed by the majority’ (quoted in Altman and Wellman 2009, 19).

22 As Beitz (2009, 337) summarizes Walzer’s argument, this conception of self-determination is ‘minimalist’, but ‘not toothless’: ‘Since it requires that the relationship between the people and their state satisfy a condition of “fit,” it is not simply external self-determination by another name. But there is no independent requirement that institutions offer the individual members of the group opportunities to control or influence political outcomes.’ (Beitz 2009, 337)

electoral representation: ‘It may also be by government in the public interest, government for the people.’ (Petersen 2008, 18)

The third problem with the maximalist interpretation concerns the difference between the right to self-government understood as a goal and the right to self-determination understood as a process (Summers 2008, 332; cf. Beitz 2009, 336). This distinction helps understand why also liberal thinkers that clearly regard liberal democracy as the best – or even the only just – form of self-government might still stick to a rather traditional understanding of self-determination and oppose active measures of promoting democracy from the outside: The notion that the process of self-determination has its own intrinsic value, in fact, has a long tradition in liberal thinking from Immanuel Kant and John Stuart Mill to John Rawls and Michael Walzer (cf. Doyle 2009, 352; Fabry 2009, 727).²³ The distinction between self-determination and self-government also shows why regarding (liberal) democracy as a precondition that enables the exercise of self-determination is fundamentally problematic: While from the liberal-democratic perspective the process of establishing democratic institutions and processes is seen as *enabling* democratic self-determination, from a broader perspective this is rather about instituting democratic self-government, a process that already represents a contingent *exercise* of self-determination.

A fourth kind of criticism points to the gap between the maximalist understanding of self-determination and the rather minimalist concept of liberal democracy usually applied by the same authors, which also implies ‘an affirmative approach to “actually existing democracy”’ (Marks 2000, 75). In liberal-democratic regimes – as defined according to the usual procedural criteria – the link between incumbent governments and popular self-determination is, at best, indirect (cf. Marks 2000. Chap. 3; Roth 2000a, 343-344; Tully 2008, 156). In responding to Reisman’s claim that what counts in modern international law ‘is the sovereignty of the people and not a metaphysical abstraction called the State’ (Reisman 2000, 252), Roth (2000a, 430) has emphasized that ‘the assertion that sovereignty should reside, not with “an abstraction called the state”, but with “the people of a country themselves”, fails to recognize that the latter is nearly as much an abstraction as the former.’ As a consequence, it is mistaken to identify the norms of popular sovereignty or self-determination of the people with liberal democracy (Roth 2000a, 15). Therefore, even if liberal democracy as an ideal and self-determination share some basic normative principles (such as popular sovereignty), this does not mean that liberal democracy as a real-existing configuration of political institutions is the best – not to speak of a necessary – condition for exercising collective self-determination. This is all the more true for any specific institutional feature of liberal democracy.

Table 2 (on the following page) summarizes the main features characterizing the maximalist and the minimalist interpretations of self-determination.

23 Therefore, according to Walzer (2006, 87), a ‘state is self-determining even if its citizens struggle and fail to establish free institutions, but it has been deprived of self-determination if such institutions are established by an intrusive neighbor.’

Table 2: *Maximalist vs. minimalist interpretations of self-determination*

	Maximalist	Minimalist
Overall conception of self-determination	Self-determination as individual right to democratic self-government, exercised collectively	Self-determination as collective right to choose path of political development and model of political order
Individual vs. collective right	Self-determination based on specific individual acceptance, requires (liberal) democracy	Self-determination based on general popular will, requires voluntary acquiescence
Internal vs. external meaning	Emphasis on internal meaning of self-determination: External self-determination without internal self-determination is meaningless	Emphasis on external meaning of self-determination: Internal self-determination without external self-determination is meaningless
Question of democracy	Democracy prior to self-determination (no self-determination without democracy)	Self-determination prior to democracy (self-determination includes right to decide over democracy)
Question of (non-) interference	Legitimate claim to external self-determination is contingent on fulfillment of internal criteria of self-determination	Legitimate claim to external self-determination limits imposition of internal criteria of self-determination

Beyond the maximalist-minimalist divide: Towards differentiation

The critique of the maximalist interpretation has led scholars to call for ‘a more open-textured interpretation of the concept of popular sovereignty’ (Fox and Roth 2000b, 13) – which equals a call for a more open-textured understanding of ‘popular self-determination’ (Fox and Roth 2000b, 14).²⁴ However, among the critics of a liberal-democratic reading of self-determination, there are important differences as to how open-textured an alternative conception of popular self-determination shall be. The minimalist variant, as summarized in Table 2, calls for a presumption of popular self-determination in all but the most drastic cases of mass human rights violations. Hence, Walzer argues that the right to non-intervention implied by the right to self-determination of a given political community does not apply ‘when the violation of human rights within a set of boundaries is so terrible that it makes talk of community or self-determination seem cynical and irrelevant, that is, in cases of enslavement or massacre’ (Walzer 2006 [1977], 90). In a similarly minimalist way, Roth acknowledges that there ‘do exist some broadly acknowledged limits to what can plausibly be argued to be a manifestation of popular will’ such as the ‘dominance of a minority race’ or the ‘dominance, direct or indirect, by a foreign state’ (Roth 2000a, 38-39); he adds that ‘there are some atrocities, such as genocide and slavery, that go to the core of shared humanitarian values, and are recognized as violating peremptory norms of international law (*jus cogens*)’ (Roth 2000a, 32, emphasis in the original; see also Petersen 2008, 18).

A somewhat more demanding understanding is defended by John Rawls in his *The Law of Peoples*, which Beitz therefore takes to represent an intermediate interpretation (between the maximalists and the minimalists). For Rawls, ‘a society is self-determining if its political institutions are set up so that outcomes reliably track a widely shared conception of the common good’ (Beitz 2009, 337). The Rawlsian list of human rights that characterize decent hierarchies – those states (‘peoples’) which are to be left to decide upon their own self-determined path of political development – includes ‘a special class of urgent rights, such as freedom from slavery and serfdom, liberty (but not equal liberty) of conscience, and security of ethnic groups from mass murder and genocide’ (Rawls 1999, 79). These conditions should enable self-determination to have some genuine meaning in the sense that the members of the given political community should be able to ‘participate in directing the community’s future in ways that do not require them to risk their lives’ (Beitz 2009, 340).²⁵ This roughly corresponds to the argument put forward by Altman and Wellman (2009, 11-42). For these authors, too, the ‘moral right of political self-determination’ is enjoyed not only by democracies but by any state that ‘adequately protects and respects

²⁴ As already quoted above, it is ‘the concept of “self-determination of peoples” that underlies sovereignty’ (Roth 2000a, 14). Consequently, (popular) sovereignty and (popular) self-determination are used interchangeably (for instance, by Fox and Roth 2000b, 13-14).

²⁵ See Macedo (2004, 1723) for a Rawls-based list of conditions that are to render a given political community ‘genuinely collectively self-governing’.

human rights' (Altman and Wellman 2009, 13) – and human rights do explicitly not include a human right to democracy but, in a much more restricted understanding, only those 'moral rights to those things an individual needs to live a minimally decent life' (Altman and Wellman 2009, 32). As long as states are legitimate in this sense, their 'moral right to self-determination' implicates that 'it is impermissible for an external agent to interfere with a group's exercise of its self-determination, even if the external agent could do a better job of protecting human rights' (Altman and Wellman 2009, 41).

In the end, therefore, we are left with gradual differences rather than clear-cut maximalist and minimalist positions. On the one hand, Roth, in criticizing the notion of a right to democracy, argues that 'an international community that takes the self-determination principle seriously can scarcely impose a specified method of self-government as a condition of according States the very respect and protection that international law purports in the name of national self-determination to provide'. Yet, at the same time, he acknowledges that 'one can no longer simply accept at face value the claims of autocratic leaders that their leadership is the expression of an unmanifested popular will or indigenous cultural norms, of which the leaders purport themselves to be the authoritative interpreters'. Hence, 'popular sovereignty' requires that 'the link between the people and sovereign power must be empirical' (Roth 2000b, 507). On the other hand, Thomas Christiano defends a human right to democracy that calls for international democracy promotion and argues that this does not limit 'a legitimate right to collective self-determination' (Christiano 2011, 172) because non-democratic countries usually 'do not have legitimate collective self-determination' (Christiano 2011, 173). Yet, he still qualifies this statement by recognizing that if there was really 'near unanimity for nondemocracy' in a given society, one could argue 'that the members of the population of the nondemocratic society are exercising the normative powers attached to their rights to democracy to waive the right to democracy' (Christiano 2011, 175). More specifically, Altman and Wellman (2009, 27) require self-determining non-democracies to not only respect basic human rights, but also to allow for constitutional referenda, in which citizens would be entitled to 'to claim or waive democratic governance'. Institutionally less demanding are the 'three conditions of self-determination' proposed by Joshua Cohen, which can also 'be satisfied by an undemocratic political arrangement' (Cohen 2006, 233).²⁶

The same kind of differentiations applies to the debate about self-determination in international law. For instance, Antonio Cassese, in his 'legal reappraisal' of the concept of self-determination, has emphasized that 'the model of representative democracy underpinning the Covenant on Civil and Political Rights is rather loose', which 'is reflected in the similarly loose content of the right to internal self-determination, laid down in Article 1 of the Covenant' (Cassese 1995, 347). The Covenant can, therefore, be read as granting peoples 'the right to make a *free and genuine choice* concerning their political and economic regime, by being able to exercise all the civil and political rights that make it possible for a given people really to choose between various political and economic alternatives or options', pointing thus in the direction of 'a *pluralistic* concept of *representative* democracy' (Cassese 1995, 347; emphasis in the original). James Crawford, in his *The Creation of States in International Law*, similarly argued that 'self-determination does not necessarily involve the establishment of a democracy based on the principle of "one vote, one value"', but 'to be consistent with self-determination any transfer of authority must be to a government which has the support of, and thus can fairly be said to be representative of, the people' (Crawford 2006, 334). Lori Damrosch, in one of the few articles that deals with the issue of 'nonforcible' interference in international law, concluded that 'even a one-party state may be able in some circumstances to satisfy an emerging international standard of political participation', as long as 'citizens have a voice in political affairs and some means of approving or disapproving of their government and effecting political change' (Damrosch 1989, 40-41). Hilary Charlesworth, finally, emphasizes the deliberately vague usage of the term democracy in the pertinent UN documents, a vagueness that continues well until today: The 2005 Summit Outcome agreed to by the Heads of State of UN members, for instance, 'noted that "democracies share common features", but did not identify any' (Charlesworth 2012, 196).

26 These conditions include (1) that 'binding collective decisions result from, and are accountable to, a political process that represents the diverse interests and opinions of those who are subject to the society's laws and regulations'; (2) that 'rights to dissent from, and appeal, those collective decisions are assured for all'; and (3) that 'government normally provides public explanations for its decisions, and those explanations [...] are founded on a conception of the common good of the whole society' (Cohen 2006, 233).

Preliminary results: Two common criteria

There is general acknowledgement that the right to self-determination refers to collective self-determination. Other than the common juxtaposition of democracy (promotion) versus sovereignty suggests, the debate is, therefore, not so much about whether one privileges the universal value of liberal democracy or the right to self-determination. At issue is rather the relation between the external and the internal meaning of self-determination and, specifically, a more or less (liberal-)democratic understanding of internal self-determination. Yet, as seen, the discussion of competing conceptions of self-determination leaves us not so much with clearly differentiated approaches, but rather with two general criteria for assessing the legitimacy of the claim to self-determination by a given government or regime.

In negative terms that define the limits of self-determination, there is (1) the condition of respect for some basic human rights. Notwithstanding different specifications of what such basic human rights shall include (and what, the other way round, might constitute mass human rights violations), there is broad agreement that one cannot talk of collective self-determination if a population's *de facto* acquiescence to an incumbent regime is merely the result of violent repression of the population and/or of minority groups within society. In positive terms, self-determination requires (2) a plausible claim that the government/regime in question is, by and large, representing some popular will. Indicators in this regard include (a) evidence of support for the regime among the population, at least voluntary acquiescence; (b) the existence of an empirical link between the government and the general population, e.g. through institutions that facilitate expressions of the popular will; and (c) evidence that the norms and institutions on which the political order in question is based have general resonance in wider society. These criteria are, of course, rather unspecific and may be interpreted (and operationalized) in different and more or less demanding ways. Self-determination, as McMahan (1996, 7) has argued, is 'multi-dimensional' and therefore 'a matter of degree'. The most radical proponents of the liberal-democratic reading of self-determination would argue that (1) respect for basic human rights already implies the need to establish liberal democracy and that (2) a plausible claim to representativeness can only be raised by liberal-democratic regimes. This reading, however, clashes with the very nature of self-determination which is reflected precisely in the relative indeterminacy of the two criteria.²⁷ If there existed one precise definition and operationalization of self-determination – say, along the lines of liberal democracy –, the whole discussion about self-determination would be entirely futile. The concept of self-government, understood as liberal-democratic self-government, would do the job. Yet, democratic theory as well as empirical research on democracy and democratization very clearly show that democracy continues to be an essentially contested concept (cf. Kurki 2013) and that processes of democratization can produce a whole variety of most different regimes which may be more or less democratic, more or less liberal and regularly include some kind of hybridity (cf. Carothers 2002). As long as this is the case, the right of political communities to determine for themselves the path and model of political development continues as relevant as ever.

The missing question of 'who decides': Self-determination as nondomination

Whether maximalist, minimalist or in between – the approaches to self-determination discussed so far leave aside a crucial procedural question: Who is it that has the authority to decide, to operationalize the above criteria and apply them to specific situations? This question is itself of utmost relevance to the topic of self-determination, as has been highlighted by Iris Marion Young's neorepublican conception of self-determination, which draws on Philip Pettit's theory of freedom as nondomination (cf. Young 2007, chap. 2).²⁸ Young's approach is discussed in this separate section because it is situated outside the range of interpretations discussed so far in the sense that it is fairly maximalist, but in a way quite different to the liberal-democratic understanding of self-determination: Its maximalism stems precisely from its emphasis on the procedural dimension.

Instead of equating self-determination with non-interference and/or sovereignty, the crucial normative reference point in Young's conception is the principle of nondomination defined as the absence of relationships that ena-

²⁷ As Roth has argued, 'popular sovereignty has a large measure of indeterminacy' (Roth 2000a, 38) and, therefore, Franck's idea that 'the legitimacy of each government someday will be measured definitively by international rules and processes' (Franck 1992, 50) 'seems not only overly ambitious, but dangerously presumptuous as well' (Roth 2000a, 364).

²⁸ On this approach to self-determination as nondomination, see also Roepstorff (2013) and, with an explicit focus on democracy promotion, Gädeke (2014).

ble an agent 'to interfere arbitrarily with the actions of others' (Young 2007, 48). From this perspective, self-determination also 'means a presumption of noninterference': 'A people has the prima facie right to set its own governance procedures and make its own decisions about its activities, without interference from others.' (Young 2007, 51) Yet, in this relational approach, the problem is not interference as such, but arbitrary interference. The question is, therefore, not whether 'outsiders' interfere with a given people, but whether they do so without systematically taking into account the interests of the latter: 'Insofar as their activities affect one another, peoples are in relationship and ought to negotiate the terms and effects of the relationship.' (Young 2005, 51) In this sense, Young also defends the notion of universal (human) rights, including the right (and responsibility) of outsiders 'to interfere with the self-governing actions of a group in order to prevent severe human rights violations' (Young 2007, 57). Such constraints and interferences are compatible with the relational right of self-determination as nondomination as long as all peoples are represented in the international institutions that define and control the 'individual rights and agents to enforce them' (Young 2007, 57).

Young does not discuss the consequences of her concept of self-determination for the (il-)legitimacy of external democracy promotion (but see Gädeke 2014). Still, at least at first sight, the implications are fairly clear-cut: External interferences, no matter how genuinely they may be aiming at democracy and human rights norms, are only consistent with self-determination as nondomination if the recipient countries that are to be affected 'have the right to participate *as peoples* in designing and implementing' the respective policies (Young 2007, 57).²⁹ This implies that democracy promotion can never be unilateral, and has to be based on globally agreed international norms of democracy promotion and implemented (or at least controlled) by 'intergovernmental institutions' (Young 2007, 51). In the end, democracy promotion practices will have to be embedded in 'some version of federalism at a global level' (Young 2007, 7; cf. Gädeke 2014).

Yet, the question remains what to do as long as there are no global rules and institutions that may deal with these issues in an authoritative way. Here, it seems that Young's approach does not offer any solution to the tension at hand. The theory of freedom as nondomination, on the one hand, yields an incredibly maximalist conception of internal self-determination insofar as the principle of nondomination 'should also apply to the relation between a group and its members': The right to self-determination of a people finds its limits where it leads to 'the domination of some members by others' (Young 2007, 57). On the other hand, however, there is the procedural principle of external self-determination which prohibits any kind of interference other than those co-authorized by the very self-determining unit; hence, only those norms, mechanisms and agents of interference are legitimate that have been established in such a consensual manner. The normative *problematique* of the external promotion of democratic self-determination is, thereby, just reframed as a tension between the collective right to nondomination by a people and the individual right to nondomination of the members of this people. Still, as will be argued in the following section, Young's emphasis on the problem of 'arbitrary' external interference and the corresponding 'presumption of noninterference' (Young 2007, 51) offer additional procedural arguments for a fairly restrictive approach to the promotion of democratic self-determination.

Normative implications for democracy promotion

The discussion of competing conceptions of self-determination, in a general sense, confirms Lori Damrosch's reformulation of the norm of non-intervention for 'nonforcible' interferences in the domestic affairs of other states: The norm of self-determination rules out any 'actions by one state that deny the people of another the opportunity to exercise free political choice' (Damrosch 1989, 6).³⁰ Yet, the question, of course, is what this might mean for the practice of democracy promotion. In order to offer a tentative answer to this question, this final section of the paper identifies some negative limits and positive normative guidelines that democracy promotion should follow if it is to respect the norm of self-determination. The result is a sketch of democracy promotion understood as the promotion of democratic self-determination.

29 Because peoples as such can hardly participate at the international level, their participation 'as peoples' can only refer to those authorities that officially represent the people at hand (by way of whatever criteria of representativeness).

30 In this sense, Brad Roth has argued that the normative (in his case: legal) question of non-forcible measures that interfere in the internal affairs of other states 'is not so much what measures constitute intervention against states, as what measures constitute intervention against *peoples*' (Roth 2000a, 170; emphasis in the original).

Limits to democracy promotion

As to the limits, the self-determination norm does clearly rule out any attempt to impose democratic rule by means of military force or force-like sanctions. No matter if one supports or rejects military interventions that respond to gross human rights violations – such as, e.g., in the framework of the responsibility to protect –, coercive democratization without any serious doubt dramatically violates any notion of collective self-determination that goes beyond a very narrow concept of liberal-democratic self-government. This is fairly common-sense in the debate in international law and international political theory. Yet, the limits imposed on democracy promotion by the norm of self-determination go further. They also concern non-coercive means once either the incumbent government (a) or opposition groups (b) reject these with a plausible reference to the popular will.

(a) Respecting self-determination rules out democracy promotion activities that are rejected by a recipient government if the latter can make a reasonably plausible claim that it represents ‘the people’ or expresses ‘the popular will’. Democracy promotion, under such conditions, undermines self-determination. Seen through the lenses of self-determination, it is the task of domestic sociopolitical forces to gather support from *within* the given country in order to challenge the authority of an incumbent government or regime. As long as they do not manage to do so in a way that seriously calls into question the government’s claim to embody collective self-determination, external actors cannot – and should not – do much about it. This is as much a normative guideline as it is a pragmatic one: If domestic sociopolitical forces can only contest a government or regime because of external support, they will hardly have the necessary domestic legitimacy to do so in a democratic way. Hard as this may seem to accept for democracy promoters, this gives to incumbent governments with a popular mandate ample room to regulate the activities of external democracy promoters, e.g. with a view to restricting the foreign funding of civil-society groups. A case in point is the Bolivian government’s decision in 2009 to demand the closure of USAID’s democracy program in the country. No matter how one might evaluate the activities implemented by USAID in this area, heeding to Freedom House’s call on the US government to continue civil-society support outside the framework of bilateral cooperation would have clearly violated the norm of self-determination (cf. Wolff 2012). Possible concerns about the democratic credentials of the Morales government notwithstanding, it is just beyond doubt that the Bolivian government acted with a popular mandate (in this case even ratified in internationally accepted free elections) and had a plausible claim to represent ‘the popular will’ of Bolivians (certainly more plausible than any previous government). At the same time, there is just no way to think that an external actor – and certainly not the US with its particular history and foreign-policy interests in the country – might be in a position to take legitimate decisions about which civil-society groups in Bolivia should be supported in order to further the cause of democratic self-determination.

(b) The same logic applies the other way round to democracy promotion in support of an incumbent government, if the latter’s claim to exercise collective self-determination is precarious and significant (opposition) groups in society reject external interference. In this situation, democracy promotion illegitimately intervenes in domestic struggles for self-determination in favor of a contested governing party.³¹ In such situations, in which the representation of a country’s popular will is openly contested, the best democracy promoters can do is trying to support processes of peaceful dialogue and negotiation between the conflicting parties. The normative principles guiding such (support for) negotiations would not be specifically (liberal-)democratic but more basically oriented at enabling popular self-determination (e.g., by enabling the representation of different interests and factions in society). The protest-driven military coup against elected President Morsi in Egypt in 2013 is a case in point: On the one hand, the Morsi government clearly had a popular mandate and, following his deposition, the Muslim Brotherhood was fiercely repressed; on the other, mass protests signaled that large parts of Egyptian society had come to openly deny this mandate and significant if not majoritarian parts of the population supported, or at least accepted, the coup.³² In this situation, external actors may call on all parties to refrain from

31 This generally corresponds to an established principle in international law concerning external intervention in civil wars. In such cases, ‘international law is generally understood to prohibit aid to either government or rebel forces and thereby violate the political independence of the State and the right of its people to determine their own political future. [...] It follows that an external intervention on behalf of the “democratic” forces in such a conflict, assuming that one side can be so identified, may reasonably be treated as an improper interference with the right of the State’s people to determine its own future.’ (Wippman 2000, 299)

32 See, for instance, the reports and assessments in Brown (2013), Chayes (2013), NewYorkTimes.com (‘Army Ousts Egypt’s President’, July 3, 2013), and TheGuardian.com (‘Mohamed Morsi ousted in Egypt’s second revolution in two years’, July 4, 2013).

violent repression, to respect basic human rights and to mutually recognize each other as legitimate representatives of societal interests and values; but any active taking party would constitute an illegitimate interference in an ongoing domestic struggle for popular self-determination.

In both instances, what is to be regarded a 'plausible claim' to speak in the name of self-determination is very much in the eye of the beholder. This raises the problem of practical judgment noted in the introduction. In response, would-be democracy promoters can – and indeed should – make the effort to hear all the different local voices. Still, external actors are clearly not entitled to solve the situation of contested representation that characterizes the two configurations outlined above in either direction. As soon as democracy promotion includes activities that are non-trivial – that is, not entirely uncontested in the given recipient country –, the burden of proof is with the democracy promoters. The norm of self-determination, therefore, implies a presumption of non-interference: In cases of doubt, don't interfere.

Such a presumption of non-interference would effectively reverse the dominant pattern characterizing current North-Western democracy promotion. Their reactions to increasing restrictions on civil-society support in countries, for instance, have basically consisted in denying 'authoritarian' or 'semi-authoritarian' governments the legitimacy to speak for their country, while pointing to the 'common practice' that developing countries usually accept 'at least some amount of external support for local civil society organizations' (Carothers 2010, 69-70). Seen from the perspective of the norm of self-determination, not the supposedly (semi-)authoritarian character of a given government or regime is of interest, but the question whether it can be broadly seen as representing the respective political community. And acknowledging that interference of the wealthier and more powerful countries in other parts of the world is (still) 'common practice' does hardly justify such activities, at least not in terms of democracy promotion.

Guidelines for promoting democratic self-determination

The discussion of self-determination also yields normative guidelines for the design and implementation of democracy promotion. These include (a) a process-oriented (instead of outcome-oriented) conception of democracy promotion; (b) an openness vis-à-vis, and empirical assessment of, normative conceptions prevalent in the recipient societies; (c) a participatory approach towards designing and implementing a particular democracy promotion strategy in a given country; (d) a willingness to subject one's own democracy promotion activities to institutionalized mechanisms of participation and accountability in and by the recipient country; and (e) a priority of respecting, rather than promoting, democratic self-determination.

Because self-determination – even if conceived of in democratic terms – is a process that is, by definition, open-ended, democracy promotion can (a) not be thought of as an exercise in social engineering that tackles pre-identified democratic 'deficits' and authoritarian legacies. Instead, promoting democratic self-determination – in contrast to a narrow notion of promoting democratic self-government – implies accompanying in a supportive, but cautious way collective search processes which have to be shaped by the interaction and struggle of domestic actors and forces (Wolff 2014, 281-282). In this sense, (b) the aim of democracy promotion cannot be a specific type of democratic regime that may perhaps be established in the home state of the democracy promoter. In designing democracy promotion strategies, democracy promoters cannot help but try to assess empirically the conceptions of societal norms and political order present in a given recipient country. To the extent that democracy promotion is about promoting democratic self-determination, the aim of the whole endeavor has to be conceptualized in a rather inductive, empirical way: The democracy that is to be promoted in a specific country is the democracy the respective society prefers.

Strictly speaking, it is the political community at hand only that can define the appropriate aims and strategies of democracy promotion compatible with the norm of self-determination. The entire process of practicing democracy promotion – from the definition of the aims to the design, implementation, evaluation and revision of the programs – therefore (c) needs to be participatory in the sense of including representatives from within the recipient country that plausibly express the popular will and/or the diversity of opinions present in a given society. But the norm of self-determination requires more than the simple consultation of local voices: As the neorepublican notion of self-determination as nondomination suggests, democracy promoters have to (d) subject their policies to institutionalized mechanisms of participation and accountability. This, first and foremost, refers to the established political institutions in the recipient countries (government, parliament), which have the

prima facie authority to speak on behalf of the population. But broadening participation by including further societal groups and, in particular, marginalized sectors of society is of course both in line with the objective of democracy promotion and the norm of self-determination. However the precise setup of such mechanisms of participation and accountability, what is crucial is that they receive at least tacit support in the recipient country. As soon as there is explicit resistance by either the incumbent government or opposition groups with a plausible claim to represent the popular will, the above limits on democracy promotion apply.

The same holds true for the substance of democracy promotion: If, in a given country, the government or a significant opposition prefer a conception of democracy (if not an explicitly non-democratic conception of political order) that is incompatible with the one held by the external actor, democracy promotion in line with the norm of self-determination is impossible. Even if there is broad agreement on a given conception of political order in the recipient country, external actors might still decide to refrain from supporting such an order. This is certainly also a legitimate decision: There is an obligation to respect self-determination, but none to actually *promote* it. If it appears that a would-be democracy promoter and a given recipient country do not find some common normative ground that enables the former to promote democracy in a way compatible with the right of self-determination of the latter, then there is no option but to refrain from any kind of democracy promotion. Democracy promotion, therefore, is either participatory and dialogical – or it is not promoting democratic self-determination.

This leads to a final normative guideline. To the extent that an external actor wants to contribute to enabling democratic self-determination of a given country, the priority should (e) be on *respecting*, instead of *promoting* self-determination. On the one hand, there are a lot of things North-Western states and international organizations can do in order to broaden the room for self-determination in those (Southern) countries that are the usual targets of democracy promotion. Activities to reduce asymmetric interdependencies in the area of international economic relations, changes to the international trade and investment regime that increase the discretionary power of developing power or efforts to re-regulate the global financial markets are cases in point. While working against *domestic* limitations to democratic self-determination is, as seen, an ambivalent issue for external actors, reducing or avoiding *external* limitations is, in normative terms, much more clear-cut a task. On the other hand, also activities directly aimed at promoting democracy should be guided by the priority of respecting self-determination. As soon as there is any serious doubt as to whether a democracy-promotion activity might undermine popular self-determination, it should better be stopped. This might be called the do-no-harm principle of democracy promotion understood as the promotion of democratic self-determination.

Conclusion

The *problematic* of self-determination – part and parcel of any democracy-promotion agenda – poses crucial challenges and, in fact, severe limits to democracy promotion. In negative terms, external democracy promotion is legitimate to the extent that it does not violate the norm of self-determination of the political community in which it operates. In positive terms, the legitimacy of democracy promotion is based on the claim that it does contribute to realizing democratic self-determination. However conceptualized, operationalized and measured, the concept of self-determination, thus, defines both the limits and the overall objective of democracy promotion.

This has crucial consequences for democracy promotion. Because democracy promotion is, by definition, about external support to internal self-determination, its aim cannot be neatly pre-defined from the outside but has to be (and remain) open to adaptation and revision in accordance to local values and preferences in target countries. This requires a willingness on the part of the democracy promoters to put the overall aim, the general strategy and the specific activities of democracy promotion up for discussion with those that are to make use of it. Strictly speaking, the norm of self-determination demands that representatives of the recipient country have institutionalized means to shape and control external democracy promotion activities.

At the same time, because democracy promotion is about promoting democracy, its aim cannot be made entirely dependent on local preferences and demands but requires some (baseline) conception about what counts as democracy, or, more precisely, what are the (pre-defined) limits for local adaptations and revisions of democracy. Yet, if the distance between external and local notions of democracy (or, more generally, of the notions of a just political regime that expresses popular sovereignty) becomes too large, this cannot be read as a reason to

shift to confrontational strategies of promoting democracy. The norm of self-determination, in such cases, demands ceasing activities related to democracy promotion. If a would-be democracy promoter and the political authorities in a given recipient country do not find a common ground and/or if the claim to exercise the right of collective self-determination for a given political community is fundamentally contested between different local groups, then there is just no way for democracy promotion that complies with the norm of self-determination. Whether, to what extent and based on which substantial and procedural criteria external actors, under such circumstances, may be entitled (or not) to interfere based on principles other than those related to democracy and self-determination, is another issue. The norm of self-determination, as was seen, does not preclude intervention to stop gross human rights violations by a government that disqualify any claim to collective self-determination (as long as the intervention is pursued in line with jointly agreed international norms and conducted under the control of established international authorities).³³ But this does not, somehow indirectly, constitute a rationale and justification for democracy promotion: As far as the norm of self-determination is concerned, interventions cannot but fulfill the very restricted aim of stopping violence and enabling some kind of a peaceful transition whose shape has to be determined by local actors.

Of course, some scholars and politicians will argue that the whole notion of collective self-determination is just terribly outdated – and should be replaced by a universal norm of liberal-democratic self-government. Yet, given the real-existing diversity of conceptions of democracy, and of political order in general, this is hardly compatible not even with the very norms of democracy promotion. It rather confirms the basic rationale behind the whole idea of collective self-determination: In a world in which threats to democratic self-determination come at least as much from global power asymmetries as they emerge from within the countries of the Global South, collective struggles for locally specific kinds of democratic self-determination require the protective shield established by the norm of self-determination.

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33 This, still, does not imply that so-called humanitarian interventions are legitimate and/or legal under such circumstances. It is only to say that intervention would not be illegitimate/illegal on the grounds of a collective entitlement to self-determination.

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